

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36051]

Progressive Rail Incorporated—Continuance in Control Exemption—Iowa Southern
Railway Company

Progressive Rail Incorporated (PGR), a Class III rail carrier, has filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of Iowa Southern Railway Company (ISR), upon ISR's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in Iowa Southern Railway Company—Lease & Operation Exemption—Appanoose County Community Railroad, Docket No. FD 36050, wherein ISR seeks Board approval to lease and operate approximately 34.5 miles of rail line between milepost 0.0 in Centerville, Appanoose County, Iowa, and milepost 34.5 in Albia, Monroe County, Iowa.

The transaction may be consummated on or after August 13, 2016, the effective date of the exemption (30 days after the notice of exemption was filed).

PGR owns or operates rail lines in Minnesota, Wisconsin, and Illinois, and controls three other Class III rail carriers that operate rail lines in Minnesota, Missouri, and Iowa.

PGR represents that: (1) the rail line to be leased and operated by ISR does not connect with any of the rail lines of PGR or of the other three Class III rail carriers controlled by PGR; (2) the continuance in control is not a part of a series of anticipated

transactions that would result in such a connection; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 1180.2(d)(2).

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by August 5, 2016 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36051, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas J. Litwiler and Audrey L. Brodrick, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: July 26, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.